

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
DIVISION 1**

PERRY G. CARROLL, as Administrator)
of the Estate of CRAIG DANIEL TEMPLE,)
deceased,)

Plaintiff,)

v.)

ANDY'S TRUCKING SERVICES LLC; and)
CARTAYA YORLEN PENA,)

Defendants.)

CIVIL ACTION NO.:

COMPLAINT

COMES NOW Perryn G. Carroll, as Administrator of the Estate of Craig Daniel Temple, deceased, through counsel and shows unto the Court the following:

STATEMENT OF THE PARTIES

1. Plaintiff Perryn G. Carroll is over the age of majority and is a resident of Mountain Brook, Jefferson County, Alabama. Ms. Carroll is the duly appointed Administrator of the Estate of Craig Daniel Temple, deceased.

2. The decedent, Craig Daniel Temple, was a resident of Birmingham, Jefferson County, Alabama.

3. Defendant Andy's Trucking Services LLC (hereinafter "Andy's Trucking") is a foreign corporation whose principal place of business is in Diberville, Harrison County, Mississippi.

4. Defendant Cartaya Yorlen Pena (hereinafter "Pena") is over the age of majority and is a resident of Plantation, Broward, County, Florida. At all times material herein, Pena was believed to be an agent of Defendant Andy's Trucking.

JURISDICTION

5. This Court has subject matter jurisdiction of this civil action on the basis that the amount in controversy exceeds \$75,000 and has diversity of citizenship between the parties pursuant to 28 U.S.C.S. §1332.

STATEMENT OF FACTS

6. On or about July 14, 2021, Craig Temple was driving a 2010 Chevrolet Express G3500 bearing vehicle identification number 1GB3G2AG8A1145853 southbound on Pinson Valley Parkway in the right-hand lane in Jefferson County, Alabama. Plaintiff was properly belted and was driving in his capacity as employee of Jimmie Hale Mission.

7. At said time and place, Defendant Pena was operating a commercial vehicle owned by Andy's Trucking, southbound in the right-hand lane on Pinson Valley Parkway in Jefferson County, Alabama directly in front of Plaintiff Temple.

8. Defendant Pena was an employee and/or agent of Defendant Andy's Trucking at the time of the accident.

9. At all times herein mentioned, Plaintiff's vehicle was operated in a reasonable and prudent manner, with due caution and regard for the motor vehicle laws of the state of Alabama.

10. Defendant Pena slowed his vehicle and attempted to make a right turn onto Red Hollow Road by swinging his commercial vehicle wide and into the left-hand lane in violation of the law and without regard for the safety of others, causing Plaintiff's vehicle to collide into the rear of Defendant's vehicle.

11. As a direct and proximate result of the aforesaid wrongful, negligent, and/or wanton conduct of Defendant Pena, Craig Temple suffered injuries that resulted in his death.

WHEREFORE, Plaintiff demands judgment against each of the Defendants jointly and severally, for both compensatory and punitive damages; and damages allowable under Alabama's Wrongful Death Act in an amount to be determined by a jury together with the costs of this proceeding.

COUNT ONE
(Negligence/Wantonness – Defendant Pena)

12. Plaintiff realleges all paragraphs of the Complaint as if set out here in full.

13. On July 14, 2021, Defendant Pena was operating a 2016 Volvo VN VNL commercial vehicle within the line and scope of his employment with Andy's Trucking when he negligently and wantonly allowed his vehicle to exit and then re-enter his lane of travel while attempting to turn, thereby causing a collision with Plaintiff's vehicle.

14. Defendant Pena had a duty to act reasonably and use care while driving. Defendant Pena had a duty to pay attention to traffic, to maintain a proper lookout, to obey traffic control devices, to obey the laws and rules of the state of Alabama, and to pay full time and attention to the operation of his vehicle in order to avoid a collision.

15. Defendant Pena breached that duty of due care by failing to pay proper attention to the roadway and the traffic, failing to obey the laws and rules of the state of Alabama, failing to control the vehicle in order to avoid a collision, and failing to maintain his vehicle in his travel lane, causing a collision with Plaintiff's vehicle.

16. As a direct and proximate cause of the negligence or wantonness of Defendant Pena, Craig Temple suffered injuries that resulted in his death.

WHEREFORE, Plaintiff demands judgment against each of the Defendants jointly and severally, for both compensatory and punitive damages; and damages allowable under Alabama's

Wrongful Death Act in an amount to be determined by a jury together with the costs of this proceeding.

COUNT TWO

(Negligence/Wantonness – Defendant Andy's Trucking)

17. Plaintiff realleges all paragraphs of the Complaint as if set out here in full.
18. Defendant Andy's Trucking had a duty to Plaintiff to act reasonably.
19. Defendant Andy's Trucking breached that duty.
20. As a direct and proximate cause of the negligence or wantonness of Defendant Andy's Trucking, Craig Temple suffered injuries that resulted in his death.

WHEREFORE, Plaintiff demands judgment against each of the Defendants jointly and severally, for both compensatory and punitive damages; and damages allowable under Alabama's Wrongful Death Act in an amount to be determined by a jury together with the costs of this proceeding.

COUNT THREE

(Gross Negligence/Wantonness – Defendants Pena and Andy's Trucking)

21. Plaintiff realleges all paragraphs of the Complaint as if set out here in full.
22. At the time and place of the aforementioned accident, Defendants operated the vehicle in a careless, reckless and unsafe manner, failed to exercise ordinary care and diligence, and were further grossly negligent in, including but not limited to, the following respects:
 - (a) they failed to keep a proper lookout;
 - (b) they failed to maintain proper control of their vehicle so as to avoid an accident; all in total disregard for the safety of the Plaintiff and those around him;

- (c) Defendant Andy's Trucking entrusted its vehicle to Defendant Pena, either with actual or constructive knowledge that he was an incompetent driver and was likely to operate a motor vehicle in a negligent and reckless manner;
- (d) Defendant Andy's Trucking negligently or wantonly hired, retained, supervised, entrusted a vehicle to and/or trained Defendant Pena; and
- (e) Defendant Andy's Trucking and Pena negligently and/or wantonly inspected and/or maintained the tractor trailer driven by Pena.

23. Defendants' conduct constitutes gross negligence and/or wantonness, which proximately caused, in whole or in part, the death of Craig Temple.

COUNT FOUR

(Negligent Hiring, Training and Supervision – Defendant Andy's Trucking)

24. Plaintiff realleges all paragraphs of the Complaint as if set out here in full.

25. Defendant Andy's Trucking, prior to and at the time of the accident, was negligent in its hiring, training and supervision of Defendant Pena in that it entrusted its vehicle to Defendant Pena, either with actual or constructive knowledge that he was an incompetent driver and was likely to operate a motor vehicle in a negligent and reckless manner.

26. Defendant's negligence in hiring, training and supervision of Defendant Pena proximately caused, in whole or in part, the death of Craig Temple.

COUNT FIVE

(Agency Defendant – Andy's Trucking)

27. Plaintiff realleges all paragraphs of the Complaint as if set out here in full.

28. The above-described acts of Defendant Pena were committed while he was acting as agent, servant, and or employee of Defendant Andy's Trucking, and were committed within the scope of his agency and while furthering the business interest of Defendant Andy's Trucking.

29. As principal of Defendant Pena, Defendant Andy's Trucking is responsible for all of the acts committed by Defendant Pena within the scope of his agency, including the truck accident in this case that caused Plaintiff's death.

COUNT SIX
(Combined and Concurring Negligence)

30. Plaintiff realleges all paragraphs of the Complaint as if set out here in full.

31. The negligence, wantonness or other wrongful acts of all Defendants in this case combined and concurred to cause the injuries and damages as alleged above.

DAMAGES

32. The injuries suffered by Craig Temple ultimately caused his death.

33. The Plaintiff is entitled to punitive damages for the willful, wanton, intentional, reckless and malicious acts of the Defendants. Further, the acts of the Defendants constitute gross negligence.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against each of the Defendants jointly and severally, for both compensatory and punitive damages; and damages allowable under Alabama's Wrongful Death Act in an amount to be determined by a jury together with the costs of this proceeding.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL COUNTS

This the 12th day of January, 2022.

s/ Christopher D. Glover
CHRISTOPHER D. GLOVER (GLO007)
Attorney for Plaintiff

OF COUNSEL:

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DEFENDANTS MAY BE SERVED AT THE FOLLOWING ADDRESSES:

Andy's Trucking Services LLC
c/o Juan C. Ruiz
306 Peach St.
Diberville, MS 39540
(Harrison County)

Cartaya Yorlen Pena
5741 SW 8th St.
Plantation, FL 33317
(Broward County)